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COMMITTEE AGAINST TORTURE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

Second periodic reports of States parties due in 1996

Addendum

VENEZUELA*

[1 December 2000]

* The initial report submitted by the Government of Venezuela is contained in document CAT/C/16/Add.8; for its consideration by the Committee, see document CAT/C/SR.370, 373 and 377, and Official Records of the General Assembly, fifty-fourth session, Supplement No. 44 (A/54/44), paras. 124-150.

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Introduction

1. Venezuela, as a State party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, hereby submits for consideration by the Committee against Torture its second periodic report on the measures taken to give effect to its undertakings under the Convention, in accordance with article 19 of the Convention.

2. As an expression of its desire to protect and defend human rights, the Venezuelan State is a signatory to all the basic international human rights instruments adopted by the United Nations and the Organization of American States and has entered into a series of political and moral commitments stemming from declarations and resolutions of the political and technical bodies of the international organizations. Venezuela has recognized the jurisdiction of the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights in respect of complaints against the State, and that of the United Nations Human Rights Committee and the Committee against Torture. It is currently a member of the United Nations Commission on Human Rights and is one of the Vice-Chairpersons.

3. In addition to being a party to the Convention against Torture, Venezuela is also a party to the International Covenant on Civil and Political Rights, article 7 of which prohibits torture, to the American Convention on Human Rights, article 5 of which prohibits torture, and to the Inter-American Convention to Prevent and Punish Torture. These, like other international human rights instruments, have been incorporated into current domestic legislation by virtue of their adoption as acts of the Republic by the Legislature and due ratification. Thus the rights they embody are considered "self-executing" and so may be invoked before the judicial and administrative authorities, who can and must apply such instruments even though a given domestic Act may not expand on their principles. The Constitution lays stress on reinforcing the principles that guarantee full respect for and enjoyment of human rights and the incorporation of the relevant new concepts developed in international law in recent years, so as to be in keeping with society's needs in matters of justice and with the principles and requirements of the international treaties and conventions ratified by Venezuela and incorporated in the Constitution with constitutional status, which means that they are immediately and directly applicable by the courts and other public bodies.

4. As a party to all the international human rights instruments, the Venezuelan State fulfils its duty of ensuring that these rights are equally respected by all groups or individuals acting under its jurisdiction. Thus the rights established in these instruments must also be respected by private individuals and not only by the State or its agents. The Venezuelan State has the obligation not only to respect these rights and punish those who violate them, but also to prevent violations, in other words, to take positive steps to avert them.

5. There is close contact and cooperation with the international human rights monitoring and protection bodies in meeting Venezuela's obligations to prevent torture and punish it as a crime. Mr. Nigel S. Rodley, Special Rapporteur on torture appointed by the Commission on Human Rights, visited Venezuela from 7 to 16 June 1996, and was able, as he put it in his report, "to meet his overall objective of gathering first-hand oral and written information from a wide number of persons to enable him to make a better assessment of the situation as regards the use of torture" (E/CN.4/1997/7/Add.3, para.1, of 13 December 1996). During his visit, the

Special Rapporteur received extensive cooperation in carrying out his task and met with the highest officials of Venezuela's Executive, Judiciary and Legislature for the purpose of obtaining information concerning the measures and projects in which each was engaged in order to deal with the prison crisis. After his visit, the Special Rapporteur produced a report and made a number of recommendations, and the Venezuelan State took the necessary measures to put them into effect. The Special Rapporteur also prepared a general document (E/CN.4/2000/9/Add.1 of 13 January 2000) concerning the follow-up to his visits to Chile, Colombia, Mexico and Venezuela, in which he referred to the replies given by their Governments, and made specific requests with regard to activities under way and progress in judicial and institutional aspects of torture and inhuman and degrading treatment. This report was considered at the fifty-sixth session of the Commission on Human Rights held in Geneva from 22 March to 30 April 2000 and Venezuela provided replies to the Special Rapporteur's questions.

6. As things stand, the promotion, protection and defence of human rights, in both domestic and foreign policy, constitute a fundamental, priority objective of the Government of President Hugo Chávez Frías. Major changes and progress in this regard are taking place in Venezuela's current process of political and institutional renewal, and include the extremely recent Constitution of the Bolivarian Republic of Venezuela, published in Gaceta Oficial No. 36,860 of 30 December 1999. While the same system of democratic and representative government has been maintained, the institutions have undergone far-reaching changes since they had to conform to the guidelines established by the new Constitution.

7. On the basis of these premises, the Government wishes to inform the Committee against Torture of the new measures taken subsequent to the initial report presented to it by Venezuela at the 370th, 373rd and 377th meetings held on 29 and 30 March and 4 April 1999 respectively, and to refer again to some of the activities that had already been undertaken by the Venezuelan State to prevent and punish the practice of torture.

I. SPECIFIC ARTICLES OF THE CONVENTION

Article 2

Paragraph 1

8. Venezuela has taken various legislative, administrative and judicial measures to prevent the use of torture.

National Constitution

9. The Constitution establishes and consolidates the relationship between the State and society as regards constitutional rights and, more particularly, human rights.

10. While it is true that the 1961 Constitution included the protection of a sufficiently broad range of human rights, to the point of leaving open the possibility of defending others which, although inherent in the individual, were not expressly mentioned, it is equally true that the new Constitution not only expressly embodies the defence of other rights and guarantees, but in addition develops more explicitly those for which provision was made, as a means of ensuring

their effective protection. The rights are expressly enunciated and not set out in a restrictive manner, and so recognition is given to all rights and guarantees inherent in the individual which are not expressly contained in the Constitution, whose exercise would not be impaired by a lack of laws to regulate them.

11. Observance and implementation of these rights are developed and extended, so that all Venezuelan citizens may feel that they are protected, and certain that their rights will be respected and that any breach will be investigated, punished and made good.

12. As regards discrimination in the broad sense, including racial segregation, article 19 of the Constitution establishes the principle of equality before the law, condemning any form such segregation may take and prohibiting any form of discrimination based on race, sex, belief or social status or any other type of discrimination intended to undermine rights and freedoms.

Article 19 of the Constitution

> "The State shall guarantee to every person, in accordance with the principle of progressiveness and without any discrimination, the irrevocable, indivisible and interdependent enjoyment and exercise of human rights. Respect for and guarantees of these rights are mandatory for public bodies in accordance with the Constitution, the human rights treaties signed and ratified by the Republic, and the laws giving effect to them."

Article 21 of the Constitution

> "All persons are equal before the law. Consequently,
>
> 1. No discrimination shall be permitted on grounds of race, sex, belief or social status or any other discrimination which in general has as its aim or result the denial or impairment of the recognition, enjoyment or exercise, in conditions of equality, of the rights and freedoms of any individual.
>
> 2. The law shall ensure the legal and administrative conditions which make equality before the law real and effective, and shall take positive measures for the benefit of persons or groups who may be discriminated against, marginalized or vulnerable; in particular, it shall protect those persons who, because of any of the conditions specified above, are in a situation of manifest weakness and shall punish any abuses or ill-treatment to which they may be subjected.
>
> 3. With the exception of diplomatic forms of address, only the term 'citizen' shall be used.
>
> 4. Titles of nobility and hereditary distinctions are not recognized."

13. An example of the foregoing can be found in article 45 of the new Constitution in which the enforced disappearance of persons is prohibited; no such provision existed in the 1961 Constitution.

14. Similarly, article 46 contains a prohibition on subjecting any person to scientific experiments or medical examinations without his consent.

15. Special mention should also be made of article 54, which expressly prohibits slavery, servitude and trafficking in persons. This is undoubtedly a legislative innovation which reinforces the prevention of torture and other cruel, inhuman or degrading treatment.

16. Although the Constitution does not expressly condemn extrajudicial, summary or arbitrary executions, some of the articles contained in Title III "On duties, human rights and guarantees" do include a reference to the subject. The principle that human rights law is by definition a law of protection is taken as a starting-point, and should therefore always be interpreted in terms of its scope on the basis of the principle of the supremacy of the individual and liberty. As for its scope, article 22 covers the individual when it states: "The enunciation of the rights and guarantees contained in this Constitution and in the international human rights instruments shall not be understood as negating other rights which, being inherent in the individual, are not expressly contained therein. The absence of any law regulating these rights does not impair their exercise." This provision is interpreted as meaning that "all other rights inherent in the individual," i.e. all those also contained in the international human rights instruments ratified by Venezuela, have constitutional rank. In addition, article 20 states that "It shall be an obligation on the part of the State legally to investigate and punish offences against human rights committed by its authorities." Article 22 extends the interpretation to the individual. Similarly, article 55 interprets the position of the Venezuelan State in this regard when it stipulates: "Everyone has the right to protection by the State through the public security bodies regulated by law, in situations which represent a threat or risk to his physical safety or render it vulnerable ... The State security bodies shall respect the dignity and human rights of all individuals."

17. The human rights enshrined in the Constitution, and also all those "inherent in the individual", are protected by various guarantees set out in the text of the Constitution itself. These include, in the first place, the guarantee of legal reservation, which means that the content can only be altered by a legally valid act by the national Legislature. Secondly, there is the guarantee of the invalidity of acts which impair the rights laid down in the Constitution. Then there is the guarantee of the criminal, civil, administrative and disciplinary liability of officials who commit violations of those rights. Lastly, there is the guarantee of judicial protection in the form of the remedy of amparo.

18. The universal and indivisible guarantee of human rights, respect for the dignity of the person, the full exercise of the rights and freedoms of the individual, and the right to life and social justice are considered to be intrinsic components of a State subject to the rule of law, in keeping with the aspirations of Venezuelan society.

19. The observance and implementation of these rights are developed and extended so that Venezuela's citizens can feel themselves protected and certain that their rights will be respected and that any breach will be investigated, punished and made good.

20. A large number of rights are specifically established, and expressly enunciated and not set out in a restrictive manner, while recognition is given to all the rights and guarantees inherent in the individual which are not expressly contained in the Constitution whose exercise would not be impaired by a lack of laws regulating them. This means that the new Constitution bases the legal order of the Republic on the fullest possible respect for human dignity, the rights inherent in the individual and the free development of the personality as basic tenets of the State subject to the rule of law.

21. The Constitution covers the State's obligation to investigate and legally punish violations of human rights committed by its authorities, and to compensate the victims for loss and damage caused; it incorporates mechanisms required to deal with impunity, to prevent and punish torture and the enforced disappearance of persons, the training of security bodies in respect for human rights, the defence of the rights of vulnerable groups and the reforms required in the prison system; it gives the ordinary courts exclusive jurisdiction over offences consisting of human rights violations while the scope of the military courts is constitutionally restricted; it ratifies the absolute prohibition of the death penalty; it establishes the post of Ombudsman, along with the election by the people in each state of a state ombudsman. In addition, it recognizes the priority to be given to human rights education and information, and the need for the establishment, existence and activities of national institutions for the promotion and protection of human rights. This is why the State has been promoting the establishment of institutions of different types, origins, purposes and scope, to which reference will be made below.

22. Public officials are urged to respect the dignity and human rights of individuals, and are forbidden to use weapons or toxic substances as a means of preventing acts which may cause suffering to human beings.

23. The independence of the judiciary is guaranteed, while the Supreme Court will enjoy functional, financial and administrative independence. Also covered are entry to a judicial career and the promotion of magistrates by means of public competitive examinations to ensure the suitability and excellence of the candidates, who will be selected by panels drawn from the circuit courts, in the form and under the conditions laid down by law. The appointment and swearing-in of judges are the responsibility of the Supreme Court. The law ensures the participation of citizens in the procedure for the selection and designation of judges, who may only be removed or suspended from their posts by means of the procedures for which the law expressly provides.

24. As regards children and young people, article 78 of the new Constitution guarantees respect for and implementation of the rights established in the Constitution, the laws, the Convention on the Rights of the Child and other international treaties signed and ratified by the Republic:

Article 78 of the Constitution

> "Children and young people are full subjects of law and shall be protected by specialized courts, bodies and legislation, which shall respect, guarantee and implement the content of this Constitution, the law, the Convention on the Rights of the Child and any other relevant international treaties which the Republic has signed and ratified. The

State, families and society shall give absolute priority to ensuring their full protection, and to that end shall take into account their best interests in decisions and actions concerning them. The State shall promote their progressive incorporation into active citizenship, and shall establish a national system for the full protection of children and young people."

25. As regards the right to work, the Constitution establishes, in articles 87 and 88, the right-duty of every person to work and the equality of men and women in the exercise of this right:

Article 87 of the Constitution

"Every person has the right to work and the duty to work. The State shall guarantee the adoption of the necessary measures to ensure that every person may obtain productive employment which provides him with a decent and dignified existence and guarantees him the full exercise of this right. It is the State's objective to promote employment. Measures shall be adopted by law to guarantee the exercise of the labour rights of self-employed workers of both sexes. The freedom to work shall not be subject to any other restrictions that may be established by law.

Every employer shall guarantee his or her workers of both sexes adequate safety, hygiene and environmental conditions in their work. The State shall adopt measures and establish institutions to monitor and promote these conditions."

Article 88 of the Constitution

"The State shall guarantee fairness and equality to men and women in the exercise of the right to work. The State shall recognize housework as an economic activity which creates value added and produces wealth and social well-being. Housewives have the right to social security in accordance with the law."

26. Indigenous issues are given the social importance they merit through the establishment of standards already existing in the various international instruments, deriving from the progressive development of international law in this regard in recent years. For the first time in Venezuela's history, the indigenous ethnic groups have a say in the country's major decisions. Three indigenous representatives took part in the Constituent National Assembly during the discussions which gave rise to the present Constitution. It should be noted that the new Constitution devotes Chapter VIII to the rights of the indigenous peoples.

27. The Constitution in force since December 1999 has incorporated new rights and guarantees for the indigenous peoples, including: their original right to the land traditionally occupied by them from ancestral times (art. 119); the right to advance information and consultation regarding the use of natural resources in indigenous habitats (art. 120); a cross-cultural education system which takes account of their particular socio-cultural features, values and traditions (art. 121); recognition of their traditional medicine (art. 122); the right to

vocational training services (art. 123); guarantees and protection of the collective intellectual property comprising their know-how, technologies and innovations (art. 124); and their guaranteed representation in the National Assembly and deliberative bodies (art. 125).

28. It should also be stressed that the preamble to the Constitution recognizes that Venezuelan society is "multiethnic and multicultural", without discrimination or subordination of any kind and promotes the universal and indivisible guarantee of human rights. The new Constitution also recognizes the use of native languages, the presence of traditional socio-political institutions, a subsistence-based mode of life, an indigenous identity and a sense of belonging, all of which aspects are found in the international definition of "indigenous peoples" used by the United Nations Commission on Human Rights.

29. All the foregoing justifies a reformulation of the bases of indigenous policy in Venezuela, taking into consideration the needs, cultural and religious values and form of social control of the indigenous population. One of the prime objectives of the Public Prosecutor's Office, through the Indigenous Issues Section of the Human Rights Department, is to take simultaneous action on all the factors which have so far prevented these peoples from participating fully in the progress of the national community of which they are part, in the absence of a supervisory agency for systematic coordination of the State's policy in this area.

30. The Public Prosecutor's Office has thus become a channel of institutional communication for guidance of the activities of the organizations concerned with and committed to the indigenous communities in Venezuela, and for dealing with the type of problems which may arise, both collectively and individually, developing legal activities to safeguard their rights and calling for innovations and undertakings.

31. As part of the new constitutional framework, Venezuela has established five authorities in relation to the organization of the national Government; among these, civic authority will be exercised through the Republican Moral Council. The duties of the Office of the Ombudsman, as one of its bodies, include overseeing the rights of the indigenous peoples and taking the necessary action to guarantee them and protect them effectively.

32. At the international level, Venezuela is participating in the preparation of the draft United Nations Declaration on the rights of indigenous peoples, and supports the establishment of a permanent forum for indigenous peoples. Within the Organization of American States, consideration is also being given to a draft American declaration on indigenous peoples, to which Venezuela has devoted particular attention. Once the new legislature is established, it will have the responsibility of ratifying the International Labour Organization's Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, so that progress can be made in the implementation of this Convention at the domestic level.

33. In conclusion, constitutional developments in Venezuela have demonstrated recognition and observance of human rights. For this reason, the entry into force of the new Constitution furnishes a legal framework par excellence, in that it establishes the principle of the progressive protection of these rights in article 23, along with the constitutional status of the human rights treaties, covenants and conventions signed and ratified by Venezuela, which take precedence in domestic law and are immediately and directly applicable by the courts and other public bodies.

Article 23 of the Constitution

> "The human rights treaties, covenants and conventions signed and ratified by Venezuela have constitutional status and take precedence in domestic law, in so far as they contain provisions concerning the enjoyment and exercise of such rights which are more favourable than those established by this Constitution and the laws of the Republic, and are immediately and directly applicable by the courts and other public bodies."

Code of Criminal Procedure

34. A new Code of Criminal Procedure entered into force in July 1999. Notwithstanding the discussions on the Code's effectiveness and on revising and improving it in certain areas, its content is relevant for the following reasons.

35. It contains very constructive provisions that overcome the shortcomings of the old Code of Criminal Procedure which have been identified as major factors in the practice of torture and in the inadequate investigation and punishment of torture. The thorough implementation of the provisions of the new Code should help eradicate torture in Venezuela.

36. It also embodies a number of defendants' rights; for example, it prohibits subjecting the accused to torture or other cruel, inhuman or degrading treatment.

37. It represents a revolution in the criminal procedural system, since it replaces the old inquisitorial procedure with an accusatory one based on the principles of an oral, public, immediate, non-protracted and adversarial procedure.

38. It protects the human rights of victims and has the added advantage that it lays out in a single set of rules how matters of criminal procedure are to be dealt with.

39. It stipulates that any person accused of involvement in a punishable act shall remain at liberty during the proceedings, imprisonment being an exceptional measure to be taken only when other precautionary measures are inadequate for the purposes of the proceedings, and even then only on the orders of a judge and at the request of the Public Prosecutor's Office. This measure obviously reduces considerably the chances of the accused being subjected to torture.

40. It enables persons who are independent of each other to prosecute, defend and judge on an equal footing, thereby guaranteeing a better administration of justice and honouring the agreements entered into with all the international human rights organizations and in human rights treaties.

41. Non-governmental organizations (NGOs) may participate in the administration of justice by assisting victims. Personal liberty becomes the norm, detention the exception. A person is not detained first and questioned later, but investigated before possibly being detained. These improvements reduce the chance of any abuse by the police and hence of torture.

42. The new Code embodies the international obligations entered into by Venezuela in the various international instruments signed by it, which include the Universal Declaration of Human Rights, the American Declaration of the Rights and Duties of Man, the International Covenant on Civil and Political Rights, and the American Convention on Human Rights (the "Pact of San José"). The common denominator in these obligations is the recognition and observance of the rights protected by the declarations and agreements signed.

43. It includes the principle of personal liberty as a general rule, making pre-trial custody the exception, as well as the principle of respect for human dignity, which is thus recognized as one of the rights most commonly breached during criminal proceedings. The Code guarantees, among other rights, due process, citizens' participation and procedural equality.

44. The implementation of the Code has given rise to initiatives supported by non-governmental foundations and organizations to train law enforcement officers and prison staff, while the Public Prosecutor's Office has organized a series of nationwide workshops to bring medical experts up to date with the latest scientific developments in the investigation of torture, particularly torture that leaves no visible or obvious traces.

National institutions and human rights NGOs

45. In Venezuela, while the need to establish national institutions to actively promote and protect human rights has long been widely recognized, the emergence of a different kind of institution, with different origins, purposes and terms of reference, has been promoted.

46. In addition to both the international and the purely domestic NGOs that are operating, a number of groups, foundations, university chairs, regional commissions, official institutions (independent or otherwise) and so on have been set up. All these organizations and programmes are allowed to work freely and are treated with respect and consideration by the State and the authorities.

47. The national human rights institutions in Venezuela include the following:

(a) *Public Prosecutor's Office*: A State body provided for in the Constitution, autonomous and independent of the other public bodies, whose basic duties include ensuring the observance of constitutional rights and guarantees, taking the necessary legal steps to reassert them when they are found to have been breached, and instituting the relevant proceedings to invoke the civil, criminal, administrative or disciplinary responsibility incurred by public officials in the performance of their duties. The Public Prosecutor's Office includes the Department for the Defence of Citizens, Society and the Environment, the Department of Family Affairs and Minors, and the Department for the Protection of Civil Society. The latter comprises five operational units: the Investigations Unit, the Military Justice Unit, the Prisons Unit, the Indigenous Unit, and the Human Rights and Victim Support Unit;

(b) *Office of the Ombudsman*: An office established under the new Constitution that forms part of the Republican Moral Council, together with the Public Prosecutor's Office, the Office of the Procurator-General of the Republic and the Office of the Comptroller-General of the Republic. The Ombudsman is responsible for the promotion, defence and monitoring of the

rights and guarantees established in the new Constitution and in the international human rights treaties, and also for the legitimate, collective and widespread concerns of citizens. One of his duties is to ensure the effective observance of the rights enshrined in the new Constitution and in the international human rights treaties, conventions and agreements ratified by Venezuela, and to investigate, either on his own initiative or at the request of a party, complaints brought to his attention;

(c) *National Human Rights Commission*: Established by Presidential Decree No. 1,034 of 24 January 1996 for the purpose of giving advice and coordinating the National Executive's activities to promote and protect human rights together with public and private institutions performing similar functions. Since it was set up, the Commission has been very busy providing training in human rights to police forces, monitoring agreements between NGOs and the Government, dealing with complaints and coordinating educational activities. Under its guidance and leadership, various governmental bodies working with human rights NGOs prepared the National Human Rights Plan adopted in January 1999;

(d) *Human Rights Unit in the International Policy Department of the Ministry of Foreign Affairs:* Established in 1994 to work on Venezuela's human rights position in international forums, follow up the decisions adopted by international bodies, coordinate and prepare Venezuela's periodic reports under the international instruments signed by it, deal with requests for information from international bodies and with complaints about alleged human rights violations in conjunction with State representatives in international forums, maintain contact with domestic and foreign human rights NGOs, publicize Venezuela's international commitments throughout the country, and help make the public sector more aware and better informed about human rights in order to promote respect for them and prevent them from being violated;

(e) *Human Rights Department of the Ministry of the Interior and Justice:* Revived in January 2000 after a period of inactivity, and provided with budget resources to pursue its objectives of promoting, defending and protecting human rights;

(f) *Department of International Humanitarian Law and Human Rights of the Ministry of Defence:* Established in October 1997 with the aim of involving all military personnel in the study, dissemination and observance of the principles governing human rights and international humanitarian law, and to advise on related policies, doctrines and other activities in the national armed forces;

(g) *Human Rights Commissioner of the Metropolitan Police:* A post established in 1995 with responsibility for the Federal District and the municipalities of the State of Miranda that are part of Metropolitan Caracas. The Commissioner is appointed by the Governor of the Federal District for a five-year period and his duties include receiving citizens' complaints about human rights violations by police officers, examining and processing the complaints so that corrective measures and punishments can be applied where necessary, and promoting timely action to prevent future human rights violations.

48. Relations between official bodies and NGOs working at the national level have become closer since the first meeting between NGOs and the National Executive, in July 1997. In addition to the benefits of improved communication, this rapprochement with NGOs has made available relevant and timely information on the treatment of human rights-related topics. The National Human Rights Plan (published in Gaceta Oficial, No. 36,633, of 1 January 1999) was a result of this joint work between the State and NGOs, and the Government has taken responsibility for coordinating its implementation by all the public and private bodies concerned. The Plan was the result of inter-agency and cross-sectoral work by the National Human Rights Commission - which brings together all the governmental entities involved in this area - with the active participation of NGOs, and it is a basic tool for working out plans, programmes and projects to jointly design assessment, monitoring and follow-up strategies so as to secure the full exercise of the duties and rights inherent in human dignity. It should be pointed out that the Office of the United Nations High Commissioner for Human Rights is using the Plan as a model to be presented as an example to other countries.

Public Prosecutor's Office (Organization) Act

49. The Public Prosecutor's Office (Organization) Act entered into force on 1 July 1999. It contains provisions geared to the new criminal procedure and the new jurisdictional system introduced in Venezuela.

50. As far as the implementation of the Convention against Torture is concerned, particular attention is drawn to the following provisions of the Act:

(a) The introduction of procurators for the execution of sentences, who are responsible for monitoring observance of the rights and privileges granted by criminal and prison laws and regulations to prisoners or persons subjected to a security measure;

(b) The introduction of procurators for constitutional rights and guarantees, who are responsible for monitoring strict observance of and respect for constitutional rights and guarantees;

(c) The establishment of victim support offices, under the supervision of the Senior Procurator of each judicial division, which may request the competent judge to take steps to guarantee the victim's welfare, inter alia through protection of his property. The victim support office will provide victims with protection, advice, support, information and education services in order to ensure that their rights are properly and duly taken into account in the criminal proceedings.

Other relevant laws

51. Since ill-treatment constitutes a violation of basic human rights, and in the light of the United Nations recommendation regarding the establishment of family courts or other mechanisms to deal with cases of domestic violence, and in accordance with the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women,

Venezuela adopted, on 19 August 1998, the Violence against Women and the Family Act. The Act is an important step towards the eradication of violence against women and recognition of their human rights. It also seeks to go beyond a definition of the offence, providing for punitive and educational measures aimed at prevention. It covers sexual harassment and rape by a spouse or partner. With the adoption of the Act, terms of reference are provided for shelters for battered women. At the same time, a national plan on violence against women and the family is under preparation (National Council of Women) and the Ministry of Health has been requested to draft a protocol on care for battered women. Article 2 of the Act also reaffirms respect for personal dignity, equal rights for men and women, the protection of the family, and the rights covered in the Convention mentioned above. Pursuant to the Act, the Women and Family Support Unit was set up within the Judicial Police Section of the Ministry of the Interior and Justice, for the purpose of filing complaints in connection with acts of violence as referred to in the Act.

Violence against Women and the Family Act, article 2

> "Protected rights. This Act covers the protection of the following rights:
>
> 1. Respect for the physical, psychological and sexual dignity and integrity of the person;
>
> 2. Protection of the family and each family member; and
>
> 3. The other rights enshrined in the Act Adopting the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (the 'Convention of Belém do Pará')."

52. The Organizational Act for the Protection of Children and Adolescents entered into force on 1 April 2000, marking a significant step forward in the recognition of the rights of children and adolescents. Its basic premises are the best interests of the child and absolute priority for children's rights. Article 32 establishes the right to security of person, and states that children and adolescents may not be subjected to torture or other cruel, inhuman or degrading treatment or punishment. The Act also provides for the protection of children and adolescents by the State and the family against any form of exploitation, ill-treatment or torture that affects their security of person. Articles 1 and 2 establish the scope of the Act and guarantee the principle of equality and non-discrimination.

Organizational Act for the Protection of Children and Adolescents, article 1

> "Purpose. The purpose of this Act is to guarantee to all children and adolescents within the national territory the exercise and the full and effective enjoyment of their rights and guarantees, through the comprehensive protection that the State, society and the family must provide for them from the moment of their conception."

Article 3

"Principle of equality and non-discrimination.

The provisions of this Act apply equally to all children and adolescents, without any discrimination on grounds of race, colour, sex, age, language, ideas, conscience, religion, beliefs, culture, political or other kind of opinion, property, social, ethnic or national origin, disability, illness, birth or any other condition of the child or adolescent, or of their parents, representatives or guardians, or of their relatives."

53. The Partial Reform of the Prison Regime Act was promulgated on 19 June 2000, as a legislative response to the need to reorganize the facilities where custodial sentences are served. At this stage, all the human rights laid down in the Constitution and laws and in the international treaties, conventions and agreements signed and ratified by Venezuela must be strictly observed. Article 6 reads as follows:

Partial Reform of the Prison Regime Act, article 6

"The provisions of this Act shall apply to prisoners without any distinction or discrimination, except for that arising from the individualized treatment to which they are subjected.

Prisoners shall not be subjected to torture or to any kind of cruel, inhuman or degrading treatment, or to coercive measures other than those permitted under the law. Any violation of this provision shall give rise to the imposition of the sanctions provided for in the law."

54. With regard to staff, articles 83 and 84 of the Act provide that staff working in the prison service must go through a selection process and must have suitable skills, while senior staff must also be qualified and properly trained, have relevant experience and, preferably, have a university degree in correctional studies.

55. Articles 2 and 10 of the Labour Organization Act guarantee the protection of individual workers. The provisions of the Act apply equally to Venezuelans and foreigners.

Labour Organization Act, article 2

"The State shall protect and attach due value to labour, protect the human dignity of the worker and promulgate rules for the more effective fulfilment of labour's function as a factor in development, guided by social justice and equity."

Article 10

"The provisions of this Act are public-order provisions to be applied throughout the territory; they apply to Venezuelans and foreigners for work performed or agreed upon in Venezuela, and may in no circumstances be waived or mitigated by private agreements, except those which through their own context demonstrate the legislator's

intention not to make them of an obligatory nature. Collective agreements may accord workers rules favourable to them that modify the general norm while respecting its purpose."

Other measures

56. Another aspect of the administrative measures taken in this area concerns the responsibility of the Venezuelan State for guaranteeing that these rights are respected equally by all groups and individuals acting under its jurisdiction. Thus, the rights established in the International Covenant on Civil and Political Rights must be respected not only by the State and its officials, but also by private individuals. Venezuelan law therefore provides for appropriate penalties in cases where groups or individuals undertake activities or commit acts aimed at the violation of any of these rights.

Paragraph 2

57. In Venezuela, the prohibition of torture is absolute, i.e. there is no lawful possibility or circumstance that might permit, justify or legitimize torture. Venezuelan law follows Human Rights Committee General Comment 20 on article 7 of the International Covenant on Civil and Political Rights.

58. Rights such as the right to life, the right to be tried by one's natural judge - who must be competent, independent and impartial, the right to freedom and the right to the presumption of innocence are among the wide range of rights guaranteed by Venezuela's new Constitution. These guarantees may not be restricted or suspended, even in the event of emergencies, disturbances that threaten the peace or serious circumstances that may affect economic and social activity.

Paragraph 3

59. Sanctions are provided for in cases of torture or cruel, inhuman or degrading treatment or punishment; they are imposed on persons committing, or attempting to commit, this offence, their accomplices and anyone failing to report or tolerating the offence. Public officials who inflict, instigate or tolerate any act of torture will also be punished; their punishment will be doubled if the victim's freedom has been restricted in any way. The new Constitution retains and expands on the corresponding provision in the 1961 Constitution; in article 25, it establishes that the orders of a superior cannot be used to justify the violation or infringement of these rights and that the official receiving the order has a duty to disobey it and to report the person concerned.

Article 25 of the Constitution

"Any act of the public authorities which violates or impairs the rights guaranteed by this Constitution and the law is void, and the public officials who order or execute it shall be held criminally, civilly or administratively liable, as the case may be; orders of superiors may not serve as an excuse."

60. On the question of legitimate and due obedience, under article 24 of Presidential Decree No. 3,179 of 7 October 1993, "no law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, or invoke superior orders as a justification of such acts".

Article 3

61. In granting extraditions, Venezuela has complied with the procedures established in the relevant laws and treaties and respected all relevant guarantees. Nevertheless, we had the case of the Peruvian national Cecilia Nuñez Chipana, who was accused of being a member of the Peruvian subversive movement Sendero Luminoso and was arrested in Caracas on 16 December 1997. On 26 February 1998, the Peruvian Government formally applied to the Venezuelan Government for the person's pre-trial detention and extradition. On 30 April 1998, the Venezuelan Programme of Education and Action in the Field of Human Rights (PROVEA) took up the case at the request of her relatives and wro-te to the United Nations Committee against Torture requesting as a preventive measure that Venezuela should refrain from extraditing Ms. Nuñez Chipana to Peru while the admissibility of her communication was being considered, in conformity with article 3 of the Convention against Torture. On 15 May 1998, in response to PROVEA's request, the Committee requested Venezuela to refrain from extraditing Ms. Nuñez Chipana until it had reached a decision on the case. On 16 June 1998, the Supreme Court, which is responsible for deciding on extradition, ruled in favour, subject to the following conditions: "... that the person concerned should not be liable to life imprisonment or the death penalty, nor to a prison sentence exceeding 30 years, nor to detention incommunicado, isolation, torture or any other procedure while serving a sentence". On 3 July 1998, Venezuela decided in favour of extradition, considering that the Peruvian State had undertaken to fulfil the conditions laid down by the Supreme Court. On 10 November 1998, the Committee against Torture ruled against Venezuela for violating article 3 of the Convention against Torture, and reiterated its opinion on the matter when considering Venezuela's initial report. "The Venezuelan State must take appropriate measures to verify that the conditions imposed on the Peruvian Government are fulfilled during the term of imprisonment to which Ms. Nuñez Chipana has been sentenced (25 years)". Although no formal machinery has been instituted to follow up the Supreme Court's decision, in the light of the number of communications exchanged both internally and with the Peruvian Government, it may be said that in practice the Venezuelan State has taken the necessary steps. In fact, there has been a constant exchange of communications between the foreign affairs ministries of the two countries in connection with this case. One communication worth mentioning is that dated 7 May 1999, in which the Peruvian Minister for Foreign Affairs, Mr. Fernando De Trazegnies Granda, replied that Ms. Nuñez Chipana was being subjected to conditions of maximum security imprisonment, in accordance with the treatment prescribed for inmates tried for and convicted of the offence of terrorism and treason in Peru, which guarantees conditions no less than those established by the United Nations. On 28 May 1999, by decision of the Venezuelan Minister for Foreign Affairs, Mr. José Vicente Rangel, the Venezuelan Ambassador in Peru was instructed to monitor regularly the fulfilment by the Peruvian Government of the conditions it had accepted to obtain the person's extradition, through visits to be made by a diplomatic or consular official of that Embassy to the place where the person was held in detention and to keep the Ministry informed in that respect. On 13 July 1999, the Embassy in Lima reported that as a result of its requests to visit the maximum security women's prison in Chorillos, the Peruvian Minister for Foreign Affairs had suggested that the conditions

of imprisonment of Ms. Nuñez Chipana might be assessed through the Peruvian Office of the Ombudsman, which would submit quarterly reports on that person's conditions of imprisonment. So far, the Government of Venezuela has received three such reports, copies of which are annexed herewith. The matter was also added to Venezuela and Peru's bilateral agenda to ensure due monitoring of the case, in conformity with the Committee's recommendation.

62. In Venezuela extradition is governed by the provisions contained in the Constitution, the Code of Criminal Procedure and international agreements concluded in this respect and exceptionally by principles of international solidarity and reciprocity.

63. Extradition in Venezuela involves the powers and responsibilities of the Executive and the Judiciary and of the Prosecutor's Office. According to the role played by the States involved in such procedures, which either request or grant extradition, we may refer in this case to passive extradition.

64. In the case of a passive extradition, the diplomatic mission of the requesting country accredited in Venezuela must submit the application to the Ministry of Foreign Affairs, which forwards it to the Ministry of the Interior and Justice. If the individual concerned is in the country, the latter Ministry will order pre-trial detention and will submit sureties to the Supreme Court, which has to decide whether or not extradition proceedings should be initiated. If the request is submitted without the necessary judicial documentation, but with an offer to produce it subsequently, and with a request that the individual concerned should be arrested until the documentation is ready, the Executive (in the form of the Ministry of the Interior and Justice) may order the person to be detained, for a fixed term not longer than a continuous period of 60 days, for presentation of the said documentation. If that period expires before the documentation has been submitted, the Ministry may order the release of the detainee, but with the possibility of re-ordering detention if the documentation is received at a later date. The Supreme Court will convene a hearing within 30 days following notification of the application, which will be attended by the person charged, defence counsel and a government representative from the applicant country, who will present their cases. After the hearing, the Supreme Court will issue a ruling within 15 days.

65. Like in the active extradition procedure, the Attorney-General will give an opinion regarding the request for extradition submitted by the authorities of the applicant country, in the light of the following requirements, which are accepted by positive law and international practice:

(a) The principle of "double incrimination", whereby extradition will be granted if the offence with which the person concerned is charged in the applicant country also constitutes an offence in the solicited country;

(b) Extradition is considered only in cases of ordinary offences, and not for political or related offences;

(c) Extradition will be refused if the time limit for the action has expired;

(d) Extradition will be refused if the act for which the person concerned is charged is punishable in the applicant country by death or life sentences, since this is contrary to article 44 (3) of the Constitution and articles 6 (3) and 94 of the existing Penal Code. It should be pointed out, however, that if the penalty exceeds the limit permitted under our legislation, extradition may still be granted provided that the applicant country guarantees that those penalties will not be applied:

Article 44 (3) of the Constitution

"Personal liberty is inviolable; therefore:

...

3. The penalty may not extend beyond the convicted person. No one shall receive life-long or degrading penalties. Sentences of imprisonment shall not exceed 30 years".

Article 6 (3) of the Penal Code

"... Extradition shall not be granted in respect of a foreigner accused of an offence subject to a life sentence under the legislation of the applicant country ...".

Article 94 of the Penal Code

"In no event shall any prison sentence passed according to the law exceed the maximum limit of 30 years".

(e) According to the provisions of article 69 of the Constitution and in conformity with article 6 of the Penal Code and the extradition treaties signed by Venezuela, no Venezuelan citizen may be extradited on any grounds whatever. Also, in conformity with the provisions of article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which refers to the principle of non-refoulement, the States parties may not expel or return a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture. Moreover, the same article 69 of the Constitution recognizes and guarantees the right to asylum and refuge and, in its fourth transitory clause, provides that, within the first year of the National Assembly taking office, an organizational law will be approved on refugees and asylum-seekers, in order to fill the corresponding gap in domestic legislation.

Article 69 of the Constitution

"The Bolivarian Republic of Venezuela recognizes and guarantees the right to asylum and refuge. The extradition of Venezuelan citizens is prohibited."

Article 6 (1) and (2) of the Penal Code

"No foreigner may be extradited for political or related offences or for any act not recognized as an offence under Venezuelan law.

No foreigner may be extradited for ordinary offences except by the competent authority, in accordance with the procedures and requirements established to that end in international treaties signed by Venezuela currently in force, and failing these, in Venezuelan laws."

(f) Any request for extradition must include a certified copy of the detention order, in the case of persons under investigation, or a certified copy of the sentence, in the case of escapees, as well as a certified copy of the legal provisions describing the offence of which the person is accused, and the rules pertaining to the penalties applicable in each case.

66. It should also be pointed out that, even when extradition has been granted, if the individual concerned is being tried or serving a sentence in Venezuela, the handover will be deferred until the person has either been cleared by a final judgement or has served his sentence.

67. It is worth noting further that in a new clause the Venezuelan Constitution establishes that: "Extradition may not be refused in the case of foreigners responsible for the offences of capital fraud, drug-related offences, international organized crime, acts against public property or drug trafficking. Subject to a court ruling, any assets derived from activities related to these offences shall be confiscated. Proceedings in cases involving the above-mentioned offences shall be public, oral and summary, subject to due process, the competent judicial authority being allowed to issue whatever preservation measures are necessary against the property of the accused or the person's representatives, as a guarantee in the event of liability."

Article 4

68. As mentioned earlier, article 46 of the new Constitution recognizes torture as a new offence. Torture had never before been expressly recognized in Venezuelan legislation, which is thus aligned with international human rights commitments undertaken by Venezuela. Article 46 (1) of the Constitution is worded as follows:

Article 46 of the Constitution

"Every person is entitled to respect for his or her physical, mental and moral integrity. Therefore:

1. No person may be subjected to cruel, inhuman or degrading treatment, torture or punishment. Any victim of cruel, inhuman or degrading treatment or torture practised or tolerated by State officials shall be entitled to rehabilitation.

2. Any person deprived of liberty shall be treated with due respect for the dignity inherent in human beings.

3. No person shall be subjected without his free consent to scientific experiments or to medical or laboratory examinations, unless that person's life is in danger or in other circumstances determined by law.

4. Any public official acting in an official capacity who inflicts ill-treatment or physical or mental suffering on any other person, or who instigates or tolerates this type of treatment, shall be punished in accordance with the law."

69. Even though the offence of torture is not classified as such in the Penal Code, article 182 of that Code provides as follows:

Article 182 of the Penal Code

"Any public official who, while responsible for the custody or transfer of any detained or convicted person, commits arbitrary acts against that person or subjects him or her to acts not authorized under the relevant regulations shall receive a prison sentence of between 15 days and 20 months. The same penalty shall apply to any public official who, having authority over such a person by virtue of his office, commits any such acts against the person.

Prison sentences of between three and six years shall be imposed if any suffering, offences against human dignity, harassment, torture or physical or moral attacks are inflicted on a detained person by his guards or warders or by anyone ordering such acts, in violation of the individual rights recognized in article 60, paragraph 3, of the Constitution."

Article 114 (3) of the Code of Criminal Procedure

"Rules for police action. Investigating police officials shall detain persons charged under the provisions of this Code subject to the following rules:

...

3. They shall not inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, either at the time of arrest or during the period of detention."

70. Article 176 of the Penal Code also provides for imprisonment for "anyone who, without authority or right, uses threats, violence or other unlawful coercion to compel a person to carry out or tolerate an act he is not obliged to perform by law or prevents him from performing an act that is not prohibited by law ... if such coercion also involves an abuse of public authority or is exercised against a family member or partner or against a public official in connection with his duties, or if it leads to serious harm to the person, health or property of the victim ...", the penalty is increased.

71. Attempted torture is also punishable, under article 80 of the Penal Code. Moreover, acquiescence and complicity are defined as offences and are punishable under articles 83 to 85 of the Code.

72. As mentioned above, among Venezuela's commitments as State party to the Convention against Torture, the fourth transitory clause of the Constitution establishes that legislation sanctioning torture must be approved by special Act or reform of the Penal Code, within one year of the National Assembly taking office. A preliminary bill to prevent and punish torture and other cruel, inhuman or degrading treatment is currently under study.

Fourth transitory clause, paragraph 1, of the Constitution

> "Within a year of taking office, the National Assembly shall approve:
>
> 1. Legislation on the punishment of torture, either by special Act or by reform of the Penal Code."

Article 5

73. The Venezuelan State has clearly established its jurisdiction over the offences referred to in article 5 of the Convention.

74. According to article 4 of the Penal Code, persons liable to trial in Venezuela and punishable under Venezuelan criminal law include:

> "1. Venezuelan nationals who, while in a foreign country ... commit acts punishable by law' (the offence of torture being, naturally, one of those acts punishable according to the new Constitution and domestic law);
>
> "2. Foreign nationals or citizens who, while in a foreign country, commit an offence against ... a Venezuelan national' (this would include cases where foreigners commit the offence of torture against Venezuelan nationals).

75. Since, under article 6 of the Penal Code, "no Venezuelan national may be extradited on any grounds whatever", in the event that a Venezuelan national commits the offence of torture in a foreign country, he "shall be tried in Venezuela, at the request of either the victim or the Public Prosecutor's Office".

Article 6

76. As regards detention with a view to extradition of a person suspected of the offence of torture, the Venezuelan State follows the legal provisions of the Venezuelan Constitution, the Inter-American Convention on Extradition and the Code of Criminal Procedure.

Article 7

77. The various situations referred to in this article of the Convention are dealt with by the Constitution and in domestic legislation, and by the Inter-American Convention on Extradition, to which Venezuela is a party.

78. Article 27 of the Constitution provides for constitutional protection (amparo), which guarantees fair treatment from the very beginning of proceedings, in the following terms: "Every person is entitled to the protection of the courts in the enjoyment and exercise of constitutional rights and guarantees, even those inherent in the person which are not expressly mentioned in the Constitution or in international human rights instruments ... Proceedings for the protection of liberty or security may be initiated by any person, whereupon the detainee shall be placed in the care of the court immediately, with no delay whatever ... The exercise of this right may not be affected in any way by the declaration of a state of emergency or the restriction of constitutional guarantees".

79. Under article 49 of the Constitution, due process must in all cases be observed, in accordance with the law.

80. According to article 2, paragraph 3, of the Inter-American Convention on Extradition: "The requested State may deny extradition when it is competent, according to its own legislation, to prosecute the person whose extradition is sought for the offence on which the request is based. If it denies extradition for this reason, the requested State shall submit the case to its competent authorities and inform the requesting State of the result." On this basis, in the event that extradition does not take place, Venezuela will submit the case to its competent authorities for prosecution, in accordance with article 7, paragraph 1, of the Convention against Torture.

81. Another possible situation is that extradition proceedings take place but the requested State does not hand over the person in question (for example, on the grounds that he could be tortured on being handed over to the requesting State). In such cases, the requested State is obliged, under article 8 of the Inter-American Convention on Extradition, to prosecute the person for the offence with which he is charged, just as if it had been committed within its territory, and shall inform the requesting State of the judgement handed down. Venezuela fully complies with this procedure.

Article 8

82. In extradition cases, Venezuela is guided by the relevant international treaties (the Bustamante Code and the Inter-American Convention on Extradition), by extradition treaties concluded with other countries, and by the Constitution and other relevant domestic legislation.

83. Venezuela fully endorses article 2 of the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which states that torture "is an offence to human dignity and shall be condemned as a denial of the purposes of the Charter of the United Nations and as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights" (article 5 of which establishes that: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.") This is a clear statement of intent to consider and classify torture as a crime which, because of its significance, characteristics and consequences, infringes the fundamental rights and values of all human beings, and not only those of the victims. The offence of torture is therefore an international offence, which should be prosecuted by all civilized States.

84. Insofar as it offends human dignity, torture harms all human beings, in the broadest sense. To condemn it as a denial of the purposes of the Charter of the United Nations is to identify it as a threat to the obligations undertaken and the ideals proclaimed by the peoples of virtually every State in the world, and one that runs counter, in particular, to the basic ideal and obligation to encourage respect for "human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion ...". Moreover, to condemn it as a violation of the Universal Declaration of Human Rights identifies torture as a threat to the "inherent dignity" and the equal and inalienable rights of all members of the human family.

Article 9

85. In ratifying the Inter-American Convention on Extradition, Venezuela restated its undertaking under this article to afford the greatest measure of assistance to other States parties in connection with criminal proceedings brought in order to punish those responsible for the offence of torture, including the supply of all necessary evidence.

86. The Inter-American Convention on Extradition obliges States parties to hand over to other States parties, at their request, persons who are judicially required for prosecution, are being tried, have been convicted or have been given a custodial sentence. Venezuela was moved to approve and, later, ratify this Convention in the belief that - in the words of the third preambular paragraph - "the close ties and the cooperation that exist in the Americas call for the extension of extradition to ensure that crime does not go unpunished, and to simplify procedures and promote mutual assistance in the field of criminal law on a wider scale than provided for in the treaties in force, with due respect to the human rights embodied in the American Declaration of the Rights and Duties of Man and the Universal Declaration of Human Rights".

87. Venezuela has also signed a number of bilateral treaties on extradition, the terms of which are binding on the parties.

88. It has signed the following extradition treaties:

(a) Venezuela and Belgium - Extradition treaty between the United States of Venezuela and the Kingdom of Belgium. Signed in Caracas on 13 March 1884. Entered into force on 5 May 1885;

(b) Venezuela and Cuba - Extradition treaty between the United States of Venezuela and the Republic of Cuba. Signed in Havana on 14 July 1910 and published in Gaceta Oficial No. 11,886 of 4 April 1913;

(c) Venezuela and the United States of America - Extradition treaty between the United States of Venezuela and the United States of America. Signed in Caracas on 19 January 1922. Entered into force on 14 April 1923;

(d) Venezuela and Colombia - Agreement by exchange of notes on the interpretation of article 9 of the Bolivian Extradition Agreement. Notes exchanged in Caracas on 21 September 1928;

(e) Venezuela and Italy - Extradition and judicial assistance in criminal proceedings treaty between the United States of Venezuela and Italy. Signed in Caracas on 23 August 1930. Published in Gaceta Oficial No. 17,672 of 8 March 1932;

(f) Venezuela and Brazil - Extradition treaty between the United States of Venezuela and the United States of Brazil. Signed in Rio de Janeiro on 7 December 1938. Published in Gaceta Oficial No. 20,114 of 21 February 1940;

(g) Venezuela and Chile - Extradition treaty between the Republic of Venezuela and the Republic of Chile. Signed in Santiago (Chile) on 2 June 1962. Published in Gaceta Oficial No. 27,790 of 19 July 1965. Entered into force on 27 August 1965;

(h) Venezuela and Spain - Extradition treaty between the Republic of Venezuela and the Kingdom of Spain. Signed in Caracas on 4 January 1989. Published in Gaceta Oficial No. 34,476 of 28 May 1990. Entered into force on 30 September 1990;

(i) Venezuela and Australia - Extradition treaty between the Republic of Venezuela and Australia. Signed in Caracas on 11 October 1988. Published in Gaceta Oficial No. 4,477, special issue of 14 October 1992. Entered into force on 19 December 1993.

89. The multilateral extradition treaties signed by Venezuela include:

(a) Venezuela, Ecuador, Bolivia, Peru and Colombia (Bolivian Congress) - Extradition treaty. Signed in Caracas on 18 July 1911;

(b) Venezuela and other Latin American States (Bolivia, Brazil, Chile, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Nicaragua, Panama and Peru). Convention on Private International Law (Bustamante Code). Book IV, title III, articles 344 to 381. Reservations by Venezuela to articles 348, 360 and 378. Signed in Havana on 20 February 1928;

(c) Venezuela and various other States - Inter-American Convention on Extradition. Signed in Caracas on 25 February 1981. Published in Gaceta Oficial No. 2,955, special issue of 11 May 1982.

90. The following agreements signed by Venezuela are awaiting legislative approval:

(a) Venezuela and the United Mexican States - Extradition treaty between the Government of the Republic of Venezuela and the United Mexican States. Signed in Caracas on 15 April 1998. Awaiting publication in the Gaceta Oficial;

(b) Republic of Venezuela and the Eastern Republic of Uruguay - Extradition treaty. Signed in Caracas on 20 May 1997. Awaiting legislative approval.

Article 10

Paragraph 1

91. The subject of human rights teaching is of considerable interest to Venezuela, as illustrated by the recent development of activities designed to reassert a human rights culture through the introduction of education and information programmes in various areas of society.

92. Human rights teaching has been incorporated in national legislation (Constitution, arts. 19, 21 and 26, title III, chap. 1). Since 1996, human rights teaching has been included in the curricula of primary schools through the study of the National Constitution, the Universal Declaration of Human Rights, the Convention on the Rights of the Child, and the Organizational Act for the Protection of Children and Adolescents. The subject of human rights has also been incorporated in the teaching of other subjects, such as the social sciences, science and technology, health education, civic values and the environment.

93. In agreement with the Ministry of Education, Culture and Sports, human rights have been designated as the cornerstone of the values that can be used to promote favourable attitudes ensuring the promotion, observance, dissemination and protection of human rights. The main obstacles encountered in the teaching of human rights are a shortage of trained teachers, the absence of pedagogical resources and the fact that the educational activities undertaken have not been promoted sufficiently.

94. Teachers and community leaders have been provided with a manual that emphasizes family and community development, as well as human rights in general. A similar manual at the pre-school level focuses on the rights of the child.

95. In 2000, the subject of human rights was incorporated in the curricula of pre-school educational establishments. At the present time their curricula are being revised with a view to the inclusion of human rights teaching even when this subject is already covered by the curriculum. Textbooks are being adapted to the requirements of school programmes in connection with this reform.

96. The Ministry of Education, Culture and Sports has also prepared human rights programmes for police officers, medical and health personnel, and trade union members and officials with a view to including the subject in official curricula, creating groups of professionals in communities for the teaching and protection of human rights, and establishing contact between professionals to facilitate exchanges of information on the subject. The main obstacles hampering implementation of these programmes include inadequate coordination between government agencies, the shortage of financial resources and the lack of suitable personnel in the human rights field. An intersectoral human rights committee, together with a fund for the protection of human rights and the training of human resources, have been established to overcome these shortcomings.

97. The present Government has introduced human rights courses and programmes for groups of women, children, older persons and displaced persons. Possibilities of providing them with human rights teaching are offered by secondary school day and night courses, by

strengthening and promoting NGOs, and by training teachers and student groups. Obstacles to such teaching include a lack of suitable personnel and information material, failure to concentrate on human rights problems and the absence of a social security programme.

98. The National Government emphasizes the importance of human rights by celebrating Human Rights Day, Labour Day, International Women's Day, Children's Rights Day, International Earth Day and World Environment Day through the organization of chat groups, processions, forums, lectures and exhibitions.

99. Arrangements are being made to disseminate information about human rights standards and instruments and to publicize the new Constitution by means of written and audiovisual material.

100. The main obstacles encountered in efforts to increase awareness of human rights in general are budgetary constraints, a poorly organized civil society, NGOs that lack funds, and inadequate support on the part of the media.

101. The following activities are to be undertaken in the next five years of the United Nations Decade for Human Rights Education:

(a) At the national level: establishment of technical human rights units in all agencies; increased funding of the National Commission; improved implementation of the National Plan; formulation of strategies to promote and publicize the National Plan;

(b) At the international level: establishment of cooperation with multilateral financing and technical cooperation bodies.

102. The Ministry of the Environment, as part of its human rights activities, publishes a quarterly bulletin entitled Ecomunicación, which targets civilian environmental organizations and the public in general and focuses on the environment and community participation.

103. The National Children's Institute (INAM) has developed human rights programmes and courses for police officers, workers, social assistants, civil servants, children and indigenous inhabitants. Moreover, in the context of its work of disseminating information about human rights standards and instruments, it has drawn up a training programme for the staff of detention centres covering human rights subjects, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules).

104. During the years 1995-1998, INAM set about promoting national discussions on the preparation of legislation on the rights of the child and drafting legal instruments governing the Institute's activities in this field. Since 1995, INAM has been developing a strategy in several towns for the protection of children consisting of a system of networks providing all-round protection for children and adolescents. It involves coordination with government and non-government sectors and comprises care and prevention activities, priority being accorded to

urgent assistance and to the dissemination and teaching of a culture of respect for the rights of children. So far 112 local networks have been created. At the present time, workshops are being held to acquaint staff with the Organizational Act for the Protection of Children and Adolescents.

105. The information material issued by INAM includes a number of pamphlets promoting local protection networks (published jointly with the services concerned) for the use of mayors and the community in general in providing guidance to local authorities in the establishment of such networks. The emphasis is on the creation of services for the protection of children and promotion of the rights of the child.

106. The Ministry of Defence's Human Rights Department runs human rights courses for members of the armed forces and its civilian personnel. Information material has been distributed to the various armed forces training schools.

Paragraph 2

107. By Decree No. 3,179 of 7 October 1993, the Code of Conduct for Law Enforcement Officials was incorporated into the compulsory standards for such officials in Venezuela. In this decree, the Venezuelan State explicitly stipulates that:

> "Public order and the safety of all persons and property are fundamental to the full enjoyment of citizens' rights and guarantees and to the functioning of the State, and it is the inescapable duty of the national Government to ensure their preservation and maintenance;
>
> It shall be the task of the police and security forces in a democratic society to protect and guarantee the free exercise of the rights and freedoms of individuals; to prevent and combat any kind of crime; and to maintain internal peace, tranquillity, order and public safety, with strict respect for the human rights and fundamental freedoms of all;
>
> The action of the police and security forces must at all times comply with the requirements of the democratic constitutional order, as set forth in the Constitution and in the international human rights instruments that are binding on the Republic; and
>
> There are various guidelines with which the conduct of members of the police and security forces must comply, since they have been recognized as universal by the United Nations, and Venezuela is in a position to incorporate them into its domestic legal order as a prime component of the rule of law: for example, the Code of Conduct for Law Enforcement Officials, adopted by the United Nations General Assembly on 17 December 1979 (resolution 34/169); and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the eighth United Nations Congress on the Prevention of Crime and Treatment of Offenders."

108. According to article 24 of the Decree:

> "No member of the police forces may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, or invoke superior orders or exceptional circumstances such as a state of war, state of emergency, internal disturbance or conflict, the suspension or restriction of constitutional guarantees, a threat to national security, internal political instability or any other public emergency as justification for such acts.
>
> The term 'torture' means any act by which pain or suffering, whether physical or mental, is intentionally inflicted on a person for purposes of criminal investigation, as a means of intimidation, as a personal punishment, as a preventive measure or for any other purpose. 'Torture' also means the use of methods tending to suppress an individual's personality or diminish his physical or mental capacity, even without causing physical pain or mental anguish."

Article 11

109. Venezuela has drawn up standards and instructions for the treatment of detained persons and for methods of interrogation, all of which form part of an overall policy of averting any incidence of torture.

110. Since one of the Committee's sources of concern was overcrowded conditions in Venezuela's prisons, information on this subject is presented in the following separate section of this report.

111. With a view to ensuring compliance with minimum standards by bodies responsible for the physical integrity of persons deprived of their liberty for having violated the law, and for providing them with adequate material conditions, the State is, as has already been mentioned, under a duty to see that no harm comes to persons in detention. The Civil Society Protection Department attached to the Public Prosecutor's Office has accordingly embarked on the implementation of a series of measures to reduce overcrowding which are coordinated by specially assigned prosecutors and enjoy the wholehearted and effective support of the judges responsible for the execution of sentences and supervision in the Caracas Metropolitan Area. These measures have effectively been reducing the overcrowding experienced by prisoners.

112. These measures have been carried out since January 2000, at least once every two months.

113. Prosecutors Nos. 80, 81, 82 and 83 attached to the Public Prosecutor's Office of the Caracas Metropolitan Area, and also National Prosecutors Nos. 13 and 14, in association with the judges responsible for supervision and the execution of sentences in this judicial district, participated in this process.

114. It should be noted that the Commission on Reorganization of the Judiciary has welcomed this approach and provided valuable support in its implementation.

115. In this way, it has been possible to maintain adequate fluidity in the movements of detainees under judicial supervision and during criminal proceedings, since they have been placed in suitable detention centres and in general overcrowding in pre-trial detention centres and police premises throughout the Metropolitan Area has been reduced.

116. The largest operations took place during March and April 2000 with the participation of prosecutors Nos. 80, 83, 14, 13 and 81, and also judges Nos. 10, 11 and 12 responsible for the execution of sentences, of the Caracas Metropolitan Area.

117. Another of the changes made in Venezuela's judicial system in recent years was that the Public Prosecutor's Office has been assigned responsibility for criminal proceedings and other aspects of proceedings which are an integral part of any judicial investigation.

118. The radical change from a strictly inquisitorial system to an accusatory system has brought about structural changes in all the institutions concerned with the administration of justice without affecting their basic functions.

119. The Code of Criminal Procedure and the Public Prosecutor's Office (Organization) Act establish two stages in criminal proceedings and designate prosecutors responsible for the criminal investigation, the prosecution of the offence and the punishment of the offence, and also prosecutors attached to the Public Prosecutor's Office whose functions are connected with the sentence execution stage; of the latter some are responsible for the enforcement of rights and constitutional guarantees and others for the execution of sentences.

120. Attention is focused below on the sentence execution prosecutors since it is they who are directly concerned with prison matters and prison policy in these times of change. The following three matters are discussed in detail:

(a) Functions of the Public Prosecutor's Office during the sentence execution stage;

(b) The sentence execution stage and the bodies involved, and their relationship with the Public Prosecutor's Office;

(c) Prison policy (changes).

121. The Code of Criminal Procedure protects the rights of a prisoner under sentence in the following way: article 472 (1), (3) and (4) concerns the right to the automatic and immediate execution of the sentence and, among other things, requires the accumulation of penalties where applicable, the specification of conditions of imprisonment, the calculation of the sentence and its rectification in the event of error and notification of completion of the sentence. Articles 479 and 483 of the Code deal with various matters connected with prisoners serving a sentence, such as the obligation of the sentence execution judge to visit the place of detention in order to determine the existence of any irregularities in the regime imposed and to require, insofar as he is able to do so, their correction and the right of a prisoner to appeal in person to the judge for verification of his conditions of detention so that steps can be taken to correct and prevent the shortcomings observed and to improve his conditions of detention.

122. Once he has been notified of the execution of the sentence, the prosecutor attached to the Public Prosecutor's Office may, within three days, submit his observations on the way it was calculated; the sentence may be corrected, even ex officio, if it is found to be incorrect or if new circumstances make it necessary to do so.

123. In addition, the prosecutor can appeal against the court's decisions in respect of the execution or annulment of the sentence, conditional release and other matters of similar importance without his appeal having the effect of suspending execution of sentence, unless the court of appeal decides otherwise (Code of Criminal Procedure, art. 476).

124. During execution of the sentence, members of the Public Prosecutor's Office may visit the detention centre in which the prisoner is being held or any medical centre to which he may have been moved because of illness.

125. The prisoner's rights are also covered by the Prison Regime Act, which stipulates the benefits available to the prison population and the conditions prisoners must meet if the benefits are to be granted by the courts, which have the last word in the matter. In this situation, it is clear that the relevant decisions continue to be taken by the judiciary, and specifically the competent judge. The second paragraph of article 6 of this Act states that "any kind of humiliating or degrading treatment of prisoners or the imposition of forms of punishment not authorized by law is prohibited." Chapter VIII of the Act is devoted in its entirety to regulations governing the disciplinary measures that may be taken in prisons, and states, beginning with article 51 that "disciplinary powers are the exclusive right of prison service staff". This provision should be interpreted in the sense that such powers may not be exercised either by other prisoners (as was done in the past by the "capo" or chief prisoner), or by outside military personnel. The disciplinary penalties that may be imposed under article 53 are personal reprimand; complete or partial loss of benefits, privileges and rewards granted, confinement in the prisoner's own cell for a period of up to 30 days; confinement in an isolation cell for up to 15 days without his being completely incommunicado; transfer to a group under a more rigorous regime; or transfer to another establishment. Coercive measures (force) may be used in prisons only in the following circumstances, which are specifically enumerated in article 57 of the Prison Regime Act: (1) When the attitude or conduct of a prisoner or group of prisoners constitutes an imminent danger or is likely to result in serious harm to persons or property; (2) When all other means of subduing the prisoner or prisoners have been exhausted; (3) If the official in charge of the prison expressly authorizes use of such methods.

126. Article 3 of the Regulations governing detainees states that "no disciplinary punishment may consist in verbal or physical ill-treatment or other measures or acts offensive to personal dignity".

127. The inter-institutional relationships between the judiciary (represented by the sentence execution judges), the Pubic Prosecutor's Office (sentence execution prosecutors), and the Ministry of the Interior and Justice (Prisons Department) continue to have the effect of creating a balance between the prisoner and his duties and the State.

128. In Venezuela, the execution of the sentence has been regarded as a purely administrative matter, which therefore calls for little or no action on the part of the judiciary. Thus, once the judgement has become final and the enforcement order has been issued by the competent court, the prisoner passes from the judicial context to one that is of a strictly administrative nature, in which the judge would intervene only in exceptional cases such as internal exile or remission of sentence.

129. The view is taken that the execution of the sentence is an administrative and not a judicial matter, and that the judicial proceedings end when the judgement is declared final.

130. This view has been criticized in certain quarters on the grounds that the judge thereby washes his hands of the consequences of his decisions and that it would be better to regard this matter as being of a judicial nature and make it the responsibility of specific judges, namely, the sentence execution judge or the prison supervision judge, who should ensure legality in the execution of the sentence and respect for the rights of the prisoner.

131. Treatment of sentence execution as a judicial matter does not mean that the prisons will be made subordinate to the judiciary. It is simply a question of providing the convicted prisoner with greater guarantees, enabling him to challenge before the courts decisions involving the serving or setting aside of the sentence, which in any event will help reduce the workload of the courts because by relieving them of administrative functions, including the actual execution of the sentence, they will be able to concentrate on trial proceedings.

132. If the execution of the sentence is treated as a judicial matter, the Public Prosecutor's Office becomes responsible for the enforcement of the rights to which the prisoner is entitled by law. In the light of the Code of Criminal Penal Procedure, this has given rise to confusion and unsound legal practice; as a result, this Office, while ensuring compliance with the law, is trying to identify the legal shortcomings that need to be corrected during this new procedural stage, thereby limiting us to this specific function in respect of prison policy.

133. A prisons decentralization bill has been prepared in connection with questions of prison administration, which at present are the sole and exclusive responsibility of the Ministry of the Interior and Justice, and specifically the Department for the Custody and Rehabilitation of Prisoners pending approval of the bill.

134. Lastly, it is clear that the joint efforts of the national agencies involved and the possibilities offered by the Code of Criminal Procedure will make it possible to overcome the difficulties being experienced by our prison system. This bodes well for the cause of justice and the human dignity of those deprived of their liberty.

Article 12

135. A series of provisions are now in force with the aim of fulfilling Venezuela's obligation under this article.

136. Under article 66 of Decree No. 943 of 22 November 1995 establishing the General Rules of Procedure of the Metropolitan Police, "When police officers have reason to believe that one of

the acts mentioned in article 64 of these rules has occurred or may occur (that a police officer may inflict, instigate or tolerate any act of torture or cruel, inhuman or degrading treatment), they shall inform their superiors and, if necessary, any appropriate authority or body vested with supervisory or remedial powers, so that the violation may be made good".

137. Articles 292 and 293 of the Code of Criminal Procedure provide for an official investigation in the following terms:

> "Article 292. The Public Prosecutor's Office, on being apprised in any way that a publicly actionable offence (such as torture) has been committed, shall order preliminary steps to be taken to investigate it and prepare a report, including all the circumstances that might effect its characterization and the responsibility of the perpetrators and other participants, and the securing of material evidence directly and indirectly related to the offence.
>
> "Article 293. If the information is received by the police authorities, they shall communicate it to the Pubic Prosecutor's Office within eight hours and shall take only the necessary and urgent preliminary steps."

Article 13

138. In accordance with the provisions of the Code of Criminal Procedure, any victim or any person with knowledge of an actionable offence may lay a complaint before a government procurator or a police criminal investigation body (see Code of Criminal Procedure, art. 294). The investigation will be initiated proprio motu by the Public Prosecutor's Office and will then proceed as normal. In addition, as stated in the reply relating to article 3 of the Convention, article 46 of the Venezuelan Constitution stipulates that any victim of torture or cruel, inhuman or degrading treatment practised or tolerated by State officials has the right to rehabilitation.

139. Article 118 of the Code permits "any individual or human rights association" to lodge "a complaint against public officials or employees or members of the police forces who have violated human rights in the performance of their duties or in connection with them". Further, article 119 provides for special assistance in that "the person directly affected by the offence may, within a victims' protection or aid association, delegate the exercise of his rights if that is more beneficial for the defence of his interests". As these two articles show, the law confers an important role on NGOs in complaints concerning human rights violations, and particularly in cases involving torture, which, as is well known, is one of the violations that private individuals tend not to report, partly through fear of reprisals against them or their families.

Article 14

140. The Code of Criminal Procedure clearly establishes the rights of victims. It states that "protection and compensation for the damage caused to the victim of the offence are objectives of the penal procedure", and that "the Public Prosecutor's Office has an obligation to guarantee those interests at all stages. The judiciary shall enforce the victim's rights and ensure respect,

protection and compensation during the proceedings. In addition, the police and other auxiliary bodies shall treat him in a manner consistent with his status as a victim, making every effort to enable him to take part in proceedings when necessary" (art. 115).

141. Article 117 of the Code sets forth the rights of the victim, including the right "to request measures of protection against probable attacks on him or his family" and "to initiate civil proceedings to establish civil liability for the actionable offence". Compensation would naturally be a part of such civil proceedings.

142. In Venezuela, anyone who is criminally liable for an offence or misdemeanour is also civilly liable, the right of action in respect of acts perpetrated by public officials in the performance of their duties being time-barred after 10 years.

143. Since Venezuela is a State party to the American Convention on Human Rights, it has automatically incorporated into its legal system article 63 of the Convention, which states, with reference to the competence and functions of the Inter-American Court of Human Rights: "If the Court finds that there has been a violation of a right or freedom protected by this Convention, the Court shall rule that the injured party be ensured the enjoyment of his right or freedom that was violated. It shall also rule, if appropriate, that the consequences of the measure or situation that constituted the breach of such right or freedom be remedied and that fair compensation be paid to the injured party".

144. One aspect not so far covered by Venezuelan legislation related to the rehabilitation of victims of torture or cruel, inhuman or degrading treatment or punishment. The new Constitution establishes a guarantee by the State to provide specialized medical, psychological and social care for the victims and the training of health professionals in this area. In addition, article 49, paragraph 8, of the Constitution breaks new ground in stipulating: "Any person may apply to the State for the restoration of the prior legal situation, or reparation of the legal situation jeopardized through judicial error or unjustified delay or omission. The right of the individual to seek to establish the personal responsibility of the competent magistrate or judge or the State and to initiate proceedings against them remains intact."

Article 15

145. In Venezuelan law and practice, no statement that is shown to have been made as a result of torture may be submitted as evidence in any proceedings.

146. In this regard, the Code of Criminal Procedure provides as follows:

(a) Under article 122, which establishes the rights of the accused: "9. To be apprised of his constitutional right not to make a statement and, in the event that he consents to make a statement, his right not to make it under oath. 10. Not to be subjected to torture or other treatment of a cruel or inhuman nature or that is degrading to his personal dignity. 11. Not to be subjected to techniques or methods that distort his free will, even with his consent";

(b) Under article 214, which deals with the legality of evidence: "Evidence shall be valid only if it has been obtained by lawful means and introduced into the proceedings in accordance with the provisions of this Code". The general principle is developed further in the subparagraph to this article, as follows: "No use may be made of information obtained through torture, ill-treatment, coercion, threats, deceit, improper interference in the privacy of the home or correspondence, communications, documents and private records, or by any other means that impairs the will or violates the fundamental rights of persons. Neither shall any value be attached to information obtained directly or indirectly by unlawful means or procedures".

147. As a State party to the American Convention on Human Rights, Venezuela automatically incorporates the provision which stipulates: "A confession of guilt by the accused shall be valid only if it is made without coercion of any kind".

Article 16

148. Venezuelan domestic law makes no distinction between torture and inhuman or degrading treatment, merely establishing penalties for public officials guilty of the generic offence of "arbitrary acts" or "acts not authorized under the relevant regulations" against persons in their care. In this respect, Venezuelan legislation is in line with article 16 of the Convention and with paragraph 4 of General Comment 20 on article 7 of the International Covenant on Civil and Political Rights, adopted by the Human Rights Committee in 1992.

149. As already mentioned, article 46 of the Venezuelan Constitution provides that no person may be subjected to torture, while article 182 of the Penal Code stipulates: "Any suffering, offences against human dignity, harassment, torture ... inflicted on a detained person by his jailers or warders or by anyone who ordered such acts ... shall be punishable by imprisonment for three to six years".

II. COMPLIANCE WITH THE COMMITTEE'S CONCLUSIONS AND RECOMMENDATIONS

150. As regards compliance with the conclusions and recommendations addressed by the Committee against Torture to the Venezuelan State as a result of the consideration of the initial report on the implementation of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, what is stated in this third report is evidence of the specific actions being taken by the Government of President Hugo Chávez to fully guarantee human rights in our country, in particular through the drafting and approval of a new Constitution. Its chapter on human rights has been recognized by all sectors of the nation as the best drafted of the whole Constitution, and includes new rights not provided for in the 1961 Constitution and expands other rights.

151. In this connection, one of the recommendations made by the Committee which has been complied with by our legislation was the inclusion in the Constitution of a provision granting constitutional rank to human rights treaties ratified by the State.

152. In addition, the new Constitution has strengthened and expanded the legal conditions for the protection of security of person, and the prevention of practices which jeopardize such security.

Additional information provided by the National Institute for Women

153. In connection with article 2 relating to the various legislative, administrative and judicial measures aimed at preventing the practice of torture in Venezuela and what is stated in the section on other relevant laws, the following information is given.

154. Two years after the entry into force of the Violence against Women and the Family Act, the National Institute for Women (INAMUJER), in cooperation with the Inter-American Development Bank (IDB), the Foundation for the Promotion of Women, and the Network to combat Violence against Women and the Family established by La Pastora Parish Church in Caracas, is developing a pilot project in La Pastora with the aim of converting the parish into a violence-free zone, through training programmes in the areas of health, education, justice and the community.

155. The project has been divided into two workshops or courses. So far initial courses have been given in the areas of health (14 sessions), education (9 sessions) and the community (3 sessions). An initial course has already been held for the Metropolitan Police and was attended by 30 officers.

156. The Network to combat Violence against Women and the Family is working with over 50 governmental and non-governmental organizations in the parish of La Pastora.

157. We would emphasize that the Violence against Women and the Family Act was prompted by recognition of the equal and inalienable rights of all members of the human family as the basis of liberty, justice and peace in the world. Similarly, it deals with the situation of violence as referred to in article 2 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and provides for compensation procedures in relation to acts of domestic violence.

158. The Office for the Protection of Women was established within the National Institute for Women (INAMUJER) in August 2000.

159. In connection with the section entitled "Compliance with the Committee's conclusions and recommendations", the following information should be incorporated.

(a) The Government of Venezuela, in its new Constitution, has determined the provisions which will regulate the question of torture, taking account of the defence of human rights and constitutional guarantees. In this way, it displays its intention to support governmental initiatives to that end. Accordingly, the public policies and decisions relating to domestic violence advocated by INAMUJER have received the necessary support;

(b) At the present time, owing to the numerous legal and political changes which have taken place in Venezuela, the execution of plans relating to the prevention of violence against women is being given greater force. In this connection, under the National Plan to combat Violence against Women and the Family, in conformity with the Violence against Women and the Family Act, provision is made for the establishment of 10 refuges for victims of domestic violence within five years (2000-2005), in other words, two new refuges will be set up every year. This policy effectively endorses the recommendation suggested by the Committee.

List of annexes*

- Constitution of the Bolivarian Republic of Venezuela (Gaceta Oficial No. 36,860 of 30 December 1999)
- Organizational Act for the Protection of Children and Adolescents
- Violence against Women and the Family Act
- Code of Criminal Procedure
- Copies of reports on the Nuñez Chipana case

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* The annexes are available for consultation in the files of the Office of the United Nations High Commissioner for Human Rights.